

Montana Water Court  
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IN THE WATER COURT OF THE STATE OF MONTANA  
UPPER MISSOURI DIVISION  
MADISON RIVER BASIN (41F)  
PRELIMINARY DECREE

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CLAIMANTS: J. Gilbert Evans; Christopher L. Evans

OBJECTOR: Kroenke Land & Livestock, LLC

NOTICE OF INTENT TO APPEAR: Kroenke Land &  
Livestock, LLC

**CASE 41F-0140-R-2025**  
41F 114937-00

**NOTICE OF FILING OF MASTER'S REPORT**

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusion of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

## **MASTER'S REPORT**

### **Statement of the case**

Kroenke Land & Livestock, LLC was substituted as an objector to the captioned irrigation claim for objections filed by its predecessors in interest, Ross Stalcup and Braxton Ranch Corp.

The claim also received issue remarks. Issue remarks result from Department of Natural Resources and Conservation ("DNRC") claims examination. Montana law requires the Water Court to resolve objections and issue remarks.

The Water Master held a status conference to discuss the objections to and issue remarks appearing on the claim. Claimants J. Gilbert Evans and Christopher L. Evans failed to appear at the scheduled status conference and later failed to contact objector/notice of intent to appear party Kroenke Land & Livestock, LLC.

Kroenke Land & Livestock, LLC filed a request for claimants to Show Cause why the claim should not be dismissed. Pursuant to Rule 22, W.R.Adj.R., a deadline was set for claimants to Show Cause why the claim should not be dismissed. Claimants did not respond by the deadline.

### **Issue**

Should irrigation claim 41F 114937-00 be dismissed from the adjudication?

### **Finding of fact**

Irrigation claim 41F 114937-00 should be dismissed from the adjudication.

## **Principles of law**

1. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that an element of the prima facie claim is incorrect. This is the burden of proof for every assertion that a claim is incorrect. Rule 19, W.R.Adj.R. A preponderance of the evidence is a “modest standard” and is evidence that demonstrates the fact to be proved is "more probable than not." *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 348, 240 P.3d 628.

2. The Montana Water Court is permitted to use information submitted by the Department of Natural Resources and Conservation, the statement of claim, information from approved compacts, and any other data obtained by the Court to evaluate water right claims. Section 85-2-231(2), MCA.

3. All parties subject to the jurisdiction of the Montana Water Court in this adjudication have the obligation to comply with Orders of this Court, including Orders issued by a Master appointed by the Court. When a claimant fails to comply with an Order issued by the Water Court, including an order issued by a Water Master appointed by the Court, the Court upon its own initiative or upon motion, can among other actions: 1) modify the elements of the claim to conform with the information in the claim file, information obtained by the Court, or information included in an objection, or 2) terminate the claim. Rule 22, W.R.Adj.R.

4. The Montana Water Court has the authority to resolve issue remarks when the claim file and information available to the Court provide a sufficient basis to do so. Section 85-2-248(3), MCA.

## **Analysis**

### **Dismissal of irrigation claim 41F 114937-00**

Kroenke Land & Livestock, LLC was substituted as an objector for objections filed by its predecessors in interest, Ross Stalcup and Braxton Ranch Corp. The objections to the captioned claim state, “This water right does not exist with...a priority date of December 31, 1870. It is the position of the Objector that this is not a valid water right. Furthermore, the claim indicates that it is a high water right. The original Decree never referenced this right and, therefore, the basis of Objection is that this right does not exist in its entirety as claimed.” Issue remarks on the claim noted the filing of these late objections to irrigation claim 41F 114937-00.

### **Conclusions of law**

Based upon the Ross Stalcup and Braxton Ranch Corp. late objections, the substitution of Kroenke Land & Livestock, LLC for objectors Ross Stalcup and Braxton Ranch Corp., and the claimants’ repeated failure to comply with orders issued by the court, the requested sanction appears just. Kroenke Land & Livestock, LLC’s objection is resolved and the issue remarks are moot.

### **Recommendations**

Irrigation claim 41F 114937-00 should be dismissed.

The issue remarks appearing on the claim abstract are mooted by the dismissal of the claim.

A Post Decree Abstract of Water Right Claim accompanies this report to confirm dismissal of the claim in the state’s centralized water right record system.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail**

J Gilbert Evans  
PO Box 125  
Virginia City MT 59755-0125

Christopher L Evans  
21 Jeffers Loop S  
Ennis MT 59729

**Service via Electronic Mail**

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**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
MADISON RIVER  
BASIN 41F**

**Water Right Number:**       **41F 114937-00**   STATEMENT OF CLAIM

**Version:**       3 -- POST DECREE

**Status:**       **DISMISSED**

**Owners:**                   CHRISTOPHER L EVANS  
                                  21 JEFFERS LOOP S  
                                  ENNIS, MT 59729  
  
                                  J GILBERT EVANS  
                                  PO BOX 125  
                                  VIRGINIA CITY, MT 59755-0125

**Priority Date:**

**Type of Historical Right:**

**Purpose (Use):**               IRRIGATION

**Flow Rate:**

**Volume:**

**Source Name:**             CEDAR CREEK

**Source Type:**             SURFACE WATER

**Point of Diversion and Means of Diversion:**

**Period of Use:**

**Place of Use:**

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**Remarks:**

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.